

SUPREME COURT
FILED

MAY 26 2021

Court of Appeal, Fourth Appellate District, Division Two - No. E076423
Jorge Navarrete Clerk

S268262

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re LUKE W. CAIN on Habeas Corpus.

The petition for review is denied.

CANTIL-SAKAUYE
Chief Justice

COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

In re LUKE W. CAIN

E076423

on Habeas Corpus.

(Super.Ct.Nos. RIC2004095 &
RIF1202963)

The County of Riverside

THE COURT

The petition for writ of habeas corpus is DENIED.

SLOUGH

Acting P. J.

Panel: Slough
Ramirez
Raphael

cc: See attached list

MAILING LIST FOR CASE: E076423
In re Luke Cain on Habeas Corpus

Superior Court Clerk
Riverside County
P.O. Box 431 - Appeals
Riverside, CA 92502

Luke W. Cain
CDC #: AM5122
California Health Care Facility
P.O. Box 213040
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District Attorney
County of Riverside
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

Hall of Justice
4100 Main Street, Riverside, CA 92501

Case Number: RIC2004095

Case Name: In the matter of: LUKE W CAIN

LUKE W CAIN
CDC#AM5122
PO BOX 213040
STOCKTON, CA 95213

**NOTICE OF ENTRY OF ORDER RE:
PETITION FOR WRIT OF HABEAS CORPUS**

You are hereby notified, pursuant to the provisions of Section 4.551 CRC, an "ORDER" was entered on 11/13/2020, to wit:

"Order re: Petition for Writ of Habeas Corpus"

Order of Denial on Petition for Writ of Habeas Corpus

-- NOTE: ALL OTHER PARTIES HAVE BEEN NOTIFIED --

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of this notice on this date, by depositing said copy as stated above.

Dated: 11/16/2020

W. SAMUEL HAMRICK JR.,
Court Executive Officer/Clerk of Court

by:



J. Villa, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

☐ **BANNING** 311 E. Ramsey St., Banning, CA 92220
☐ **BLYTHE** 265 N. Broadway, Blythe, CA 92225
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HC001

In the Matter of the Petition of PETITIONER: Luke W. Cain For Writ of Habeas Corpus		<p align="center"><small>FOR COURT USE ONLY</small></p> <p align="center" style="font-size: 1.2em;">FILED</p> <p align="center"><small>SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE</small></p> <p align="center" style="font-size: 1.1em;">NOV 13 2020</p> <p align="center">Joshua Villa </p> <hr/> HABEAS CASE NUMBER: RIC2004095
		CRIMINAL CASE NUMBER: RIF1202963
Hearing Date: N/A	Time: N/A	Department: 53
ORDER RE: PETITION FOR WRIT OF HABEAS CORPUS - DENIAL		

The Court, having read and considered the Petition for Writ of Habeas Corpus filed on 10/19/20, hereby **RULES** as follows:

1. ☒ The petition is denied because it fails to state a prima facie factual case supporting the petitioner's release. (Cal. Rules of Court, rule 4.551 (c).) The petition makes assertions regarding the applicable law that are contrary to established California case decisions.
2. ☒ The petition is denied because it fails to state a prima facie factual case supporting the petitioner's release. (Cal. Rules of Court, rule 4.551 (c).) While the petition states a number of factual conclusions, these broad conclusions are not backed up with specific details, and/or are not supported by the record in the case.
3. ☐ The petition is denied with prejudice because the issues were raised and considered in a prior appeal. "[I]ssues resolved on appeal will not be reconsidered on habeas corpus..." (*In re Clark* (1993) 5 Cal. 4th 750, 765.)
4. ☐ The petition is denied because it fails to raise any new issue that has not previously been addressed in an earlier writ petition. (*In re Clark* (1993) 5 Cal. 4th 750, 767.)
5. ☐ The petition is denied because the issues could have been raised in an appeal but were not and no excuse for failing to do so has been demonstrated. (*In re Clark* (1993) 5 Cal. 4th 750, 765.)
6. ☐ The petition is denied because the petitioner unreasonably delayed filing the petition after the facts occurred that allegedly justifies relief, and he or she has failed to adequately explain the reason for the delay. A petitioner must justify any substantial delay in presenting a claim by, inter alia, stating when he or she became aware of the legal and factual bases for his or her claims and explaining the reason for any delay since that time. (*In re Clark* (1993) 5 Cal. 4th 750, 783, 786-787.)
7. ☐ The petition is denied without prejudice because the petitioner has brought prior petitions arising from the same detention or restraint and fails to describe the nature and disposition of the claims made in the prior petitions. (Pen. Code § 1475.)
8. ☐ The petition is denied without prejudice because the petitioner is represented by counsel.
9. ☐ The petition is denied because the petition fails to establish that the petitioner has exhausted available administrative remedies. (*In re Muszalski* (1975) 52 Cal. App. 3d 500.)

PETITIONER:

Luke W. Cain

CASE NUMBER:

RIC2004095

10. ☐ The petition is denied as moot due to changed conditions: _____
11. ☐ The petition is denied because it is incomplete, unintelligible, and/or unclear.
12. ☐ The petition is denied without prejudice because it is not made on Judicial Council form HC-001, and there is no showing of good cause for failing to do so. (Cal. Rules of Court, rule 4.551 (a)(1)&(2).)
13. ☐ No order to show cause having been issued, the request for appointment of counsel is denied. (Cal. Rules of Court, rule 4.551 (c)(2).)
14. ☒ Other:

The petitioner claims the court imposed multiple punishments for the same act in violation of Penal Code § 654. The court receiving a petition for writ of habeas corpus evaluates it by asking whether, assuming the petition's factual allegations are true, the petitioner would be entitled to relief. (In re Clark (1993) 5 Cal.4th 750, 769, fn. 9; In re Lawler (1979) 23 Cal.3d 190, 194.) "If no prima facie case for relief is stated, the court will summarily deny the petition." (People v. Duvall (1995) 9 Cal.4th 464, 475.) The Court of Appeal ordered several counts stayed under Penal Code § 654 based on the sentences' imposition in counts five and nine. The trial court deemed Count five the principal count, and all other charges, including count nine, were ordered to run consecutive to the principal count. The petitioner has failed to state a factual or legal basis to support his claim for resentencing. Furthermore, this claim was raised and resolved on appeal, and there is no further relief available to the petitioner. As the petition fails to state a prima facie case, relief is unavailable. /

IT IS SO ORDERED.

Date: _____

Judge Gail A. O'Rane

(JUDGE OF THE SUPERIOR COURT)

(SIGNATURE)